

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF MICHIGAN
3 SOUTHERN DIVISION

4 UNITED STATES OF AMERICA,

5 Plaintiff,

DOCKET NO. 1:19-cr-117

6 vs.

7 LARRY CHARLES INMAN,

8 Defendant.

9 _____/
10
11 EXCERPT TRANSCRIPT OF VOLUME III OF JURY TRIAL
12 TESTIMONY OF JEREMY ASHCROFT
13 BEFORE THE HONORABLE ROBERT J. JONKER, CHIEF JUDGE
14 GRAND RAPIDS, MICHIGAN
15 December 5, 2019

16
17 Court Reporter: Glenda Trexler
18 Official Court Reporter
19 United States District Court
20 685 Federal Building
110 Michigan Street, N.W.
Grand Rapids, Michigan 49503

21 Proceedings reported by stenotype, transcript produced by
22 computer-aided transcription.
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16 * * * * *

17 Grand Rapids, Michigan

18 December 5, 2019

19 EXCERPT OF PROCEEDINGS

20 MR. O'CONNOR: The government calls Jeremy Ashcroft.

21 JEREMY ASHCROFT

22 *(The oath was administered)*

23 THE WITNESS: Yes.
24
25

DIRECT EXAMINATION OF JEREMY ASHCROFT

1 DIRECT EXAMINATION

2 BY MR. O'CONNOR:

3 Q. Good afternoon, sir.

4 A. Good afternoon.

5 Q. Would you please introduce yourself to the jury.

6 A. Yes. My name is Jeremy Ashcroft, and I'm a special agent
7 with the FBI. I'm currently assigned to the Detroit field
8 office, their Lansing resident agency, so that's the small
9 office we have in the Lansing area.

10 Q. Okay. How long have you been a special agent with the
11 FBI?

12 A. I've been an agent for a little over 17 years now.

13 Q. And before becoming an FBI agent what did you do?

14 A. I'm a mechanical engineer.

15 Q. Did you attend college?

16 A. I did.

17 Q. Where did you go to college?

18 A. I went to what was then General Motors -- well, it was
19 GMI, which stood for General Motors Institute of Technology.
20 It's now Kettering University in Flint, Michigan.

21 Q. As a special agent with the FBI did you become involved in
22 an investigation of the defendant Larry Inman?

23 A. Yes, I did.

24 Q. And when did you start your investigation of Mr. Inman?

25 A. We started our investigation on May 4th of 2018. We

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1 received a referral from the Michigan State Police. That
2 referral was eventually forwarded to me, and I took the next
3 steps of reaching out to the complainant, Lisa Canada, and
4 established a time to interview her.

5 Q. I'm sorry, what month did you say you started in?

6 A. It was May.

7 Q. May?

8 A. I'm sorry, pardon me?

9 Q. May of when?

10 A. I'm sorry, it was June of 2018. June of 2018.

11 Q. Okay. So last year?

12 A. Yes.

13 Q. In June of 2018?

14 A. In June of 2018 we received a referral from MSP.

15 Q. Why did you -- how did you get that referral from Michigan
16 State Police?

17 A. So Michigan State Police had received a complaint from
18 Ms. Canada. We have a task force officer assigned to our
19 Detroit office. That task force officer received the referral
20 from the post in Oak Park and then passed it on to the
21 management team of the Detroit FBI and then it came up to the
22 Lansing RA.

23 Q. To your knowledge did the Michigan State Police
24 investigate anything or did they simply refer it to the FBI?

25 A. No, it was simply referred to the FBI.

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1 Q. All right. And what did you do upon receiving the
2 information from Michigan State Police?

3 A. So after I received it on June 4th, I reviewed the
4 information that we received with my supervisor. I then
5 attempted to schedule an interview with Lisa Canada.

6 Q. All right. Now, did you eventually meet with Ms. Canada?

7 A. Yes, I did.

8 Q. Was this meeting with Ms. Canada, was that before or after
9 the prevailing wage vote had occurred?

10 A. It was after the prevailing wage vote had occurred.

11 Q. Approximately when did you have your first interview with
12 Ms. Canada?

13 A. It was June 12th of 2018. It was a Tuesday.

14 Q. Okay. Did you interview her about the information she
15 provided to the Michigan State Police back earlier in June?

16 A. Yes, I did. She -- I gathered the details of the text
17 message that she had received and some steps that she did as
18 well. Took photos of the text messages that she had exchanged
19 with -- or I'm sorry -- that she had received from Mr. Inman
20 and also photos of text messages she had exchanged with one of
21 the lobbyists that the carpenters union employed.

22 Q. And was this an extensive interview with Ms. Canada?

23 A. It was an interview that lasted probably about an hour and
24 a half to two hours or so.

25 Q. All right. And do you recall where you interviewed her?

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1 A. I interviewed her in a law office in Royal Oak.

2 Q. Did you ask her if she would give you permission to take
3 photographs of certain text messages on her cell phone?

4 A. Yes, I did.

5 Q. All right. Now, at this point in time, is this your first
6 investigative, formal investigative step is this interview with
7 Ms. Canada?

8 A. Yes, it was. Aside from reviewing what was passed on to
9 me by the Michigan State Police, yes, that was the first real
10 action I took.

11 Q. First interview?

12 A. Correct.

13 Q. All right. At this point in time did you have probable
14 cause to get a search warrant for Ms. Canada's cell phone?

15 A. I did not believe so, no.

16 Q. Is that why you asked her for consent to look at
17 particular text messages on her phone?

18 A. That's correct.

19 Q. Did you have a basis to search her entire phone at that
20 point?

21 A. No, I did not.

22 Q. Did Ms. Canada show you text messages that she had
23 received from the defendant Mr. Inman?

24 A. Yes, she did.

25 Q. And did you take photographs of those text messages from

DIRECT EXAMINATION OF JEREMY ASHCROFT

1 her phone?

2 A. Yes, I did.

3 Q. We saw those, Exhibit 34, here today. Did you do anything
4 to her phone before you took those photographs of those
5 messages to manipulate any of the information on the phone?

6 A. No, those were exactly as displayed on the phone at the
7 time they were shown to me.

8 Q. Based on your meeting with Ms. Canada and your review of
9 those messages, at this point did you have any evidence in your
10 investigation that other legislators had sent Ms. Canada a text
11 message soliciting campaign money in connection with the
12 prevailing wage vote?

13 A. No, I had no other allegation that any lawmaker had made a
14 similar solicitation or any solicitation for that matter.

15 Q. To this day have you developed any evidence that
16 legislators other than the defendant had solicited money by
17 text message to Ms. Canada in the days before the prevailing
18 wage vote?

19 MR. COOKE: Leading question, Your Honor.

20 THE COURT: It is, but I think it's okay in this
21 particular context.

22 Go ahead.

23 THE WITNESS: No, we have not.

24 Q. (BY MR. O'CONNOR) Now, at some point in your
25 investigation did you ask Ms. Canada if she would agree to

DIRECT EXAMINATION OF JEREMY ASHCROFT

1 place a recorded phone call to Mr. Inman?

2 A. Yes, I did.

3 Q. And did she agree to do that?

4 A. Yes, she did.

5 Q. Tell the jury why you asked Ms. Canada to make a
6 phone call that you would monitor and record.

7 A. We wanted to monitor a conversation that she had with
8 Mr. Inman so that we could develop facts and find out what
9 Mr. Inman may say about that text message, possibly develop
10 evidence, but really to just determine additional details
11 regarding that text message exchange and the communications in
12 that message.

13 Q. And when did you have Ms. Canada make that recorded
14 phone call to Mr. Inman?

15 A. That was June 19th, the morning of. Midmorning
16 approximately.

17 Q. Of 2018?

18 A. Correct.

19 Q. All right. So this is within a few weeks of your initial
20 contact by Michigan State Police and the opening of your
21 investigation?

22 A. Yes, that's right, it's 15 days after the first contact
23 and just the week after we interviewed Ms. Canada.

24 Q. Did you meet with Ms. Canada before the call was placed to
25 discuss what would happen with the call, how the call would

DIRECT EXAMINATION OF JEREMY ASHCROFT

1 occur?

2 A. Yes. We took some time before that call to explain to her
3 how the FBI records the phone call, and then we also had a
4 conversation just about how to engage in that conversation with
5 Mr. Inman.

6 Q. Did you give her a script, a written script of what to say
7 on that phone call?

8 A. No, we did not provide a script. In fact, I explained to
9 her that we didn't want to provide a script. We wanted to have
10 kind of a natural conversation with topics that she was
11 comfortable with and to allow that conversation to free-flow,
12 if you will.

13 Q. All right. Did you discuss with her some of her concerns
14 with the text message in the context of assisting her with the
15 types of questions that she might ask Mr. Inman?

16 A. Yes, we did. We reviewed the text message content,
17 reviewed how that made her feel when she received it, and
18 things that she could say to Mr. Inman during that
19 conversation. She was concerned about how that text message
20 made her reputation appear. She was concerned about the
21 integrity, her integrity, because that text message, you know,
22 kind of put her in a situation where it looked like she could
23 have been amenable to paying for a vote.

24 Q. And were those her concerns that she raised or --

25 A. Yes, those were concerns that she raised. And then we

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1 used those to discuss how to have that conversation with
2 Mr. Inman.

3 Q. All right. And you were in court while the jury listened
4 to Exhibit 19, that recorded call. Was that recorded call a
5 complete recording of the entire conversation between
6 Ms. Canada and Mr. Inman?

7 A. Yes, that was a complete and accurate copy of that
8 recording.

9 Q. Nothing was changed on the recording?

10 A. Nothing was changed on that recording.

11 Q. Was it a full, fair, and accurate record of the
12 conversation?

13 A. Yes.

14 Q. After that phone call was completed did you continue
15 investigative activities?

16 A. Yes, we did.

17 Q. And what did you do next?

18 A. Um, after that phone call was completed, um, actually
19 started drafting a search warrant and applied for a search
20 warrant to conduct a search of Mr. Inman's home and person for
21 any cell phones that he may have.

22 Q. And approximately when did you apply for a federal search
23 warrant for Mr. Inman's cell phone?

24 A. Late July of 2018.

25 Q. And in the search warrant what were you requesting

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1 authority to do?

2 A. We were requesting the authority to, as I said, search his
3 person and his house for any cell phones he might have and upon
4 locating those cell phones we would seize them and extract the
5 data to do a search of the data stored on those phones.

6 Q. Now, as part of the search warrant preparation and
7 application process did the FBI drive by the defendant's house?

8 A. Yeah, actually in order to get the search warrant we have
9 to verify the person's residence. We also have to provide a
10 description of that residence. So I asked agents that are in
11 our Traverse City office to drive by Mr. Inman's residence,
12 obtain photos of it, provide a physical description that we
13 could use for our affidavit. And we also upon execution -- or
14 just prior to executing the search warrant I had the same
15 agents drive by the residence and, you know, verify he was
16 home. We do that sometimes by confirming a vehicle registered
17 in their name is home at that home and it's their primary
18 residence or at least a residence they are in at that time. So
19 all of those steps were undertaken.

20 Q. Do you want to make sure that you're going to execute a
21 search at the correct residence?

22 A. We want to make sure it's the correct residence, and we
23 also would prefer to do it when they are home. In this
24 instance in particular. So, again, those were trips by the
25 house that were just momentary.

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1 Q. Do you recall approximately how many times that occurred?

2 A. I believe it occurred four to five times. The last week
3 of July and again at least the day before we executed the
4 search warrant on August 1st.

5 Q. Okay. And why would you drive by the day before?

6 A. Again, we knew that session was out in the House, so it's
7 not uncommon for lawmakers to take vacations, so we wanted to
8 determine if he would be home, when he might be home in the
9 morning, and make sure that -- you know, I was driving up from
10 Lansing, as was our forensic examiner. We didn't want to go up
11 there, spend time, and have nobody home for that day or that
12 week. We wanted to minimize that effect.

13 Q. Did the FBI conduct any spying on Mr. Inman?

14 A. We did not spy on Mr. Inman.

15 Q. Did you conduct any surveillance where the FBI would sit
16 and monitor that house for extended periods of time?

17 A. No. What we did, we commonly refer to them as spot-check
18 surveillance. And that's literally -- and you'll see in the
19 reports when the spot-check surveillances were done. It
20 typically states "On this date at this time, 11:15 a.m.,
21 observed" whatever they observed. And that's what was used in
22 this instance. So it was literally a car driving by the house.
23 Because of how Mr. Inman's neighborhood is laid out, it may
24 have actually been driven by twice because I think you have to
25 loop around to come back out of it. That's the only type of

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1 surveillance we employed of Mr. Inman or his residence in this
2 case.

3 Q. You weren't -- was the FBI listening in on Mr. Inman's
4 phone calls?

5 A. No, only the one we recorded on June 19th with Ms. Canada.
6 No others.

7 Q. Was there -- I guess the question I was asking, was there
8 a wiretap placed on Mr. Inman's phone?

9 A. No, there was no wiretap, no electronic surveillance. So
10 surveillance of any of his devices or communications conducted
11 in this case.

12 Q. In what city does Mr. Inman reside? Where was the search
13 warrant to be executed?

14 A. Williamsburg, Michigan. So just north of Traverse City.
15 Kind of north and east of Traverse City.

16 Q. Did you participate in the execution of that search
17 warrant?

18 A. The search team was comprised of three agents and one
19 forensic examiner. I led the execution of that search warrant.

20 Q. All right. So three FBI agents?

21 A. Yes.

22 Q. And Mr. Sharp the forensic examiner?

23 A. That's correct.

24 Q. All right. How were you dressed that day?

25 A. So I actually instructed everybody that we wanted to have

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1 what we commonly refer to as a soft presence. So I think one
2 of us had a suit on, two others had polo shirts on. We were
3 not wearing any FBI shirts or raid jackets. None of our
4 vehicles were marked. You know, we don't have lights or things
5 that are visible on the exterior of our vehicle. So we had a
6 very soft presence. So it was business casual with the
7 exception of one person that had a suit on.

8 Q. Did you run up to the front door and knock it down with a
9 battering ram?

10 A. No. Actually we drove up, I and the two other agents went
11 to the front door. I knocked on the door, waited for Mr. Inman
12 to answer the door. I identified myself from the porch, told
13 him that we had a search warrant that we were there to execute.
14 And he allowed us into the building. We did not have to force
15 any way into the building or into the house.

16 Q. And when Mr. Inman let you into the home did you tell him
17 why you were there?

18 A. Yeah, I told Mr. Inman that we had search warrants and
19 that those search warrants were going to allow us to search his
20 house and his person for his cell phone and seize that phone.
21 He indicated he understood. He pointed out to me at that point
22 that he had one cell phone and that cell phone was plugged in
23 and charging on his kitchen counter when we arrived.

24 Q. Let me back up for just a moment. Approximately what time
25 of the day did you knock on his door to obtain his cell phone?

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1 A. We knocked on his door, executed that search warrant at
2 just a little after 6:30 in the morning on August 1st.

3 Q. Was it daylight at that point?

4 A. It was daylight. And we're required on the search
5 warrants to execute search warrants during daylight hours.
6 That's generally understood. As from 6 a.m. to 10 p.m.

7 Q. When you first encountered Mr. Inman did he appear to be
8 dizzy, drowsy, confused, physically challenged in any way?

9 A. No. Actually when he came to the door he was -- had some
10 shorts on. We allowed him to get a shirt on, obviously. But,
11 no, he was engaging and cooperative. Seemed clear of mind.
12 Understood exactly what was going on. And like I said, to a
13 degree was helpful in pointing out that he had one phone and
14 pointed out that location. He also informed us that the phone
15 did not require a passcode to access it.

16 Q. Now, we heard testimony in trial from the senior computer
17 forensic examiner, Walker Sharp, who was there that day on the
18 extraction of the data from his phone. Did you obtain a copy
19 of that Cellebrite extraction report from Mr. Sharp at some
20 point during that day?

21 A. Yes, I did. Yes, I did.

22 Q. And did you review the Cellebrite extraction report
23 containing all the data from Mr. Inman's phone that was seized
24 that day?

25 A. Not on that day. I did review it over the course of

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1 multiple days.

2 Q. All right. And did you review that report for evidence
3 related to the text message -- text messages that Ms. Canada
4 had provided to you back in June?

5 A. So actually on the day that we executed the search warrant
6 and immediately after it was downloaded we did. Mr. Sharp at
7 my direction did a text string search for 30,000, and we saw
8 some immediate messages that came up as a result of that text
9 string search that included 30,000 within the body of the text
10 for the most part. I then did additional review of the rest of
11 the contents of that later when I returned to Lansing for just
12 additional information and data that was stored in that report.

13 Q. All right. So there was a brief start of the review of
14 that data and then that review continued?

15 A. That's right. That brief start was kind of to confirm
16 that there were certain messages that we knew existed at that
17 time stored in that phone, and so we did that and then I did a
18 more in-depth analysis later.

19 Q. During your subsequent review of Mr. Inman's cell phone
20 through that Cellebrite extraction report did you find evidence
21 on his phone concerning his -- regarding his physical
22 activities on June 2nd and 3rd of 2018?

23 A. Yes, I did. There were a series of text messages that he
24 had exchanged with various people in early June.

25 Q. Did it indicate -- did his phone indicate what he was

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1 doing on June 2nd of 2018?

2 A. Yes, it did.

3 Q. And what did it indicate?

4 A. There were various things he was doing on June 2nd. He
5 had been at a fly-fishing expo in Kingsley. There was some
6 work being done on his house.

7 Q. And Kingsley, where is that located?

8 A. Kingsley is a town just south of Traverse City.

9 Q. So Mr. Inman was attending the Kingsley Fly-Fish Festival?

10 A. It was the Adams Fly-Fishing Festival, yes. He actually
11 had pictures posted of him in attendance with various people at
12 the festival. There were also text messages exchanged. I'm
13 not sure if it was during the festival or perhaps even after.
14 Where he, you know, sent them out to other people. I think it
15 looked like maybe he wanted to have one posted on -- I'm
16 guessing it's his Facebook for his campaign, talking about what
17 a great time he had at the Kingsley Fly-Fishing Festival.

18 Q. All right. Did you find evidence of physical activities
19 on June 3rd regarding his home?

20 A. Yes, I did.

21 Q. What did you see?

22 A. On June 3rd it appears he had a tree removed or at some
23 point the tree had been felled at his house. And he had
24 enlisted the help of others to help cut that tree up. I think
25 he said he had moved some brush piles. But essentially was

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1 dealing with the aftermath of having a tree taken down in his
2 yard. He also posted pictures of that.

3 Q. Okay. As part of your continuing investigation of the
4 allegations made by Ms. Canada did you obtain documents
5 relevant to the investigation?

6 A. Yes, we actually obtained bank and phone records.

7 Q. If you could, sir, please turn in the book in front of you
8 to tab 26.

9 A. Sorry, tab 26?

10 Q. 26.

11 A. Okay.

12 MR. O'CONNOR: Your Honor, I believe we have an
13 agreement regarding the admissibility of this to speed this
14 along regarding the Huntington Bank records. Perhaps we could
15 just move these in?

16 THE COURT: All right, 24, '5 and '6?

17 MR. O'CONNOR: Let's see, it would be Exhibit 26 and
18 Exhibits 29, 30, 31.

19 THE COURT: 26, 29, 30, and 31? Mr. Cooke?

20 MR. COOKE: No objection.

21 THE COURT: All right. Those are admitted, then,
22 without objection.

23 MR. O'CONNOR: Thank you.

24 Let's put up Exhibit 26, please. And if we could, if
25 we could zoom in on this section here.

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1 Q. (BY MR. O'CONNOR) Mr. Ashcroft, what are we looking at in
2 Exhibit 26?

3 A. So this is a bank statement, a copy of a bank statement
4 from Huntington National Bank. This is a statement for the
5 bank account in the name of Larry Inman for State Rep, and it
6 is the activity for June 1st, 2018, through June 30, 2018.

7 Q. All right. And what does this Huntington Bank statement
8 indicate is the balance in Mr. Inman's state representative
9 campaign account at the beginning of the statement, June 1st,
10 2018?

11 A. Yes, the beginning balance in Larry Inman for State Rep on
12 June 1 is \$31,341.41.

13 Q. Did you investigate whether Mr. Inman had received
14 campaign contributions from the carpenters union?

15 A. Yes, I did.

16 MR. O'CONNOR: If we could turn to Exhibit 29,
17 please.

18 Q. (BY MR. O'CONNOR) Did you find records from Huntington
19 National Bank indicating that Mr. Inman had in fact deposited
20 campaign contributions from the Michigan Carpenters -- sorry --
21 the Michigan Regional Council of Carpenters?

22 A. Yes, I did.

23 Q. Let's zoom in right here. And did you find a check
24 deposited from the Michigan Regional Council of Carpenters from
25 October of 2017 in the amount of \$500?

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1 A. Yes, I did.

2 Q. Turning to Exhibit 30.

3 MR. O'CONNOR: If we could blow that up, please.

4 Q. (BY MR. O'CONNOR) Mr. Ashcroft -- Agent Ashcroft, did you
5 also find another check in the amount of \$500 that Mr. Inman
6 deposited into his Huntington bank account from the carpenters
7 union?

8 A. Yes, I did.

9 Q. And that's November 2017?

10 A. The check is dated, yes, November 28, 2017, and it's in
11 the amount of \$500.

12 MR. O'CONNOR: And that was Exhibit 30? 31, please.

13 Q. (BY MR. O'CONNOR) And finally, Agent Ashcroft, looking at
14 Exhibit 31 --

15 MR. O'CONNOR: If you could blow up the middle
16 section there.

17 Q. (BY MR. O'CONNOR) -- did you also find the document
18 indicating that Mr. Inman deposited the \$1,000 campaign
19 contribution from the carpenters into his campaign account?

20 A. Yes, that check is dated December 11, 2017, yes, for a
21 thousand dollars. It was deposited.

22 Q. Thank you. If you could, sir, please turn to tab 36 in
23 your book. Agent Ashcroft, as part of your investigation did
24 you obtain records from the State of Michigan?

25 A. Yes, we did.

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1 Q. And what do we see in Exhibit 36?

2 A. Exhibit 36 is the 2018 Michigan Individual Income Tax
3 Return filed by Mr. Inman.

4 Q. Did you issue a subpoena, serve a subpoena on the State of
5 Michigan Treasury Office to obtain Mr. Inman's tax return for
6 2018?

7 A. My office did, yes.

8 Q. Not you personally?

9 A. Not me personally, correct.

10 Q. And is this the document that was returned by the
11 Department of Treasury pursuant to that subpoena for the
12 record?

13 A. Correct.

14 MR. O'CONNOR: The government moves Exhibit 36 into
15 evidence.

16 THE COURT: Any objections, Mr. Cooke?

17 MR. COOKE: None, Your Honor.

18 THE COURT: All right. It can be admitted, then,
19 without objection.

20 Q. (BY MR. O'CONNOR) Looking at the first page of
21 Exhibit 36, does this indicate that this is Mr. Inman's
22 Michigan 1040 Tax Return for the tax year of 2018?

23 A. Yes, Mr. Inman is listed as the filer on this document.

24 Q. All right. If we could just jump ahead to page 7, please.
25 Did the tax return indicate whether Mr. Inman earned any income

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1 in the calendar year 2018?

2 A. Yes, it did.

3 Q. If we could zoom in here on Schedule W in the middle, what
4 did Mr. Inman report was the source of his employment income
5 for 2018?

6 A. He identified his employer as the State of Michigan and
7 that he received wages, tips, and other compensation in the
8 amount of \$57,242.

9 Q. Thank you. Okay. Agent Ashcroft, taking you back to
10 August 1st of 2018. At the time of the execution of the
11 warrant for Mr. Inman's phone did you ask Mr. Inman that day if
12 he would agree to be interviewed?

13 A. Yes. After I explained to him that we had a search
14 warrant and that we were there to execute it, I told him that I
15 would like to interview him. I told him that his participation
16 in any interview was voluntary. I informed him he was not
17 under arrest. That if he chose not to be interviewed, we'd
18 finish executing our search warrant and we would depart. But,
19 you know, again, that we wanted to interview him, and we made
20 it very clear it was voluntary.

21 Q. Did it appear to you that Mr. Inman understood completely
22 what you were asking for that day?

23 A. Yes, it did.

24 Q. Did he ever indicate to you that he was not willing to be
25 interviewed that day?

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1 A. No. Actually he told us that he would be willing to sit
2 down and do an interview with us.

3 Q. And did you go ahead and conduct that interview at his
4 residence in Williamsburg?

5 A. Yes, I interviewed him at his dining table in his kitchen.

6 Q. And who was present for that interview?

7 A. Mr. Inman, of course, was there. I was there. One of the
8 agents, Garrett Kruhn (sp), from our Traverse City office was
9 witnessing that interview with me. The other agent from our
10 Traverse City office and Walker Sharp, you know, went through
11 our search protocols.

12 Q. Okay. And did you tell Mr. Inman -- aside from advising
13 him of the search warrant for his phone, did you tell him the
14 subject matter of what you wanted to talk about that day?

15 A. Yeah, I told him that we were conducting an investigation
16 regarding the possibility of lawmakers selling their vote in
17 regard to the prevailing wage vote.

18 Q. And did he indicate he understood the subject of what you
19 were asking about that?

20 A. He told me he understood that and he told me that he had
21 not engaged in selling his vote. And we started talking about
22 prevailing wage. He told us right away that he was undecided
23 on prevailing wage.

24 Q. And did you have a conversation with him about prevailing
25 wage? Did he explain to you what prevailing wage was and what

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1 the repeal issue was that he was facing in the Michigan
2 legislature?

3 A. During the interview he did. He gave us kind of a summary
4 of what the prevailing wage law was. He told us how it was his
5 understanding from contact he had with contractors and business
6 owners in his district that there were complexities involved in
7 the compliance with prevailing wage. He told us that some of
8 those companies explained to him that they had to hire a staff
9 that was trained and capable of hitting those compliance
10 requirements to comply with prevailing wage.

11 Q. Did he -- sorry.

12 A. I was going to say, he also at another point in the
13 interview told us about the prevailing wage ballot initiative.
14 Explained to us how it was being challenged, how it went
15 through a court process, ultimately going through the Court of
16 Appeals.

17 Q. Okay. Did he demonstrate to you a very solid grasp and
18 understanding of the intricacies of the prevailing wage repeal
19 issue that was percolating through the State of Michigan?

20 A. To me he seemed versed both on the prevailing wage law as
21 well as the ballot initiative process associated with it, yes.

22 Q. All right. Now, did you ask Mr. Inman if he had any
23 contacts with unions regarding the prevailing wage repeal?

24 A. Yes. He told us that he had been in contact with the
25 Michigan Regional Council of Carpenters and Millwrights,

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1 specifically recalled having contact with Lisa Canada and
2 lobbyists from Capitol Services. He also told us that he met
3 with other folks in the trade in his district. He met with
4 Associated Builders and Contractors which is not a trade entity
5 but was one of the units that -- or if you will, entities that
6 wanted to repeal prevailing wage. He also told us that in the
7 leadup to that prevailing wage he had toured union training
8 facilities.

9 Q. And did Mr. Inman talk about attending a presentation at
10 the Capital Prime Restaurant in Lansing in late 2017?

11 A. Yes, he recalled in late 2017 he attended the event
12 at Capital Prime. He recalled that Ms. Canada was giving a
13 presentation on the history and benefits of prevailing wage
14 when he got there. He also recalled meeting Ms. Canada at the
15 end of that event. Told us that was the first time he had
16 actually met her as well.

17 Q. Did he remember talking with Ms. Canada after he met her
18 for the first time that night?

19 A. Yes. He told us that he had met her after her
20 presentation was done. That they had a conversation about
21 prevailing wage. And --

22 Q. And did you ask Mr. Inman if Lisa Canada had asked him for
23 anything at that meeting?

24 A. I did, and actually he told us she hadn't asked nor had
25 she offered him anything.

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1 Q. Did you ask Mr. Inman anything about whether there was a
2 conversation about campaign contributions at the Capital Prime
3 event?

4 A. Yes. He recalled that Ms. Canada said that the carpenters
5 union would be willing to support those politicians that
6 supported their position on preventing the repeal of prevailing
7 wage. He told me that he recalled Ms. Canada mentioning that
8 there was \$30,000 available to assist in campaigns. And he
9 specifically recalled that when Ms. Canada mentioned that
10 \$30,000 he told us his recollection was his response was "Oh,
11 that's nice."

12 Q. And did you ask Mr. Inman a series of questions about
13 whether he received any campaign contributions from unions
14 leading up to the prevailing wage vote?

15 A. I did, and he recalled getting \$2,000 in contributions
16 from the carpenters. He specifically recalled when he received
17 the \$2,000 in contributions from the carpenters that he felt
18 conflicted. He told us that he was still undecided on how he
19 would vote at that time of those contributions, and he felt
20 that unethical to accept those contributions if he did not
21 support the union's position.

22 Q. Did he tell you whether he ultimately did accept
23 contributions from the carpenters?

24 A. He did tell us that even though he was conflicted at the
25 time of the receipt of those \$2,000 worth of contributions he

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1 chose to deposit that money into his campaign.

2 Q. Did he tell you about any other contributions he received
3 from other unions?

4 A. He recalled getting some small-dollar contributions. I
5 believe there was a thousand-dollar contribution he recalled
6 receiving from another union. And he also recalled receiving I
7 believe it was a hundred or a couple hundred dollars from the
8 Associated Builders as well.

9 Q. Did he also recall receiving a campaign contribution from
10 the carpenters union in the amount of \$4,000?

11 A. Yes. And he told us about that after explaining to us
12 that the ballot initiative seeking the repeal of prevailing
13 wage was going through the court process and that the
14 signatures or the initiative -- I'm not sure what exactly --
15 but some part of it was challenged. And he recalled that he
16 received a \$4,000 check from the carpenters union and he
17 recalled that that -- that he received that right about the
18 time the appeal of the prevailing wage ballot initiative was
19 upheld by the appellate court.

20 Q. Did he tell you whether or not he deposited that \$4,000
21 check?

22 A. He again told us that he was conflicted on what to do with
23 that check. As a result he told us he decided to hold onto
24 that check and not deposit it.

25 Q. Did you ask Mr. Inman if he was ever offered \$30,000 in

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1 campaign contributions in connection with the prevailing wage
2 vote?

3 A. Yes, I did, and he denied that he was ever offered
4 \$30,000.

5 Q. What was his -- when he referred to the \$30,000 that he
6 recalled being mentioned at the Capital Prime, did he express
7 any understanding of what he thought that that 30,000 was for?

8 A. He told me that --

9 MR. COOKE: Objection, leading question, Your Honor.

10 THE COURT: It is leading, but it sets up the ability
11 of the agent to answer it, and I think for that purpose it's
12 fine.

13 Go ahead.

14 THE WITNESS: He told us that his understanding of
15 that \$30,000 that was referenced at the Capital Prime meeting
16 was that that was a total amount that the carpenters had to
17 spread out over all legislators that may be supportive of the
18 union's position. It was a shared total, if you will.

19 Q. (BY MR. O'CONNOR) And did Mr. Inman talk about any
20 actions that he took personally to either support or not
21 support the prevailing wage vote?

22 A. Actually Mr. Inman told me he took no action in regard to
23 prevailing wage. When we talked about possible polling of
24 other lawmakers, he told me that it was actually another
25 lawmaker that polled the colleagues in the House.

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1 Q. And that was Representative Marino?

2 A. That was Representative Marino, correct.

3 Q. Did you eventually talk with Mr. Inman about what happened
4 on the day of the vote to repeal prevailing wage?

5 A. Yes, I did, and he described to me that -- the details of
6 that day. He told me he remained undecided as far as which way
7 he would vote on repeal up until the vote. He had a
8 conversation with Mr. Marino the day of the vote, and it was
9 his belief that Mr. Marino had secured enough votes to prevent
10 the repeal of prevailing wage, allowing him to change -- or I
11 guess because he was undecided to actually choose to be a yes,
12 to vote yes to repeal prevailing wage. He told us that he
13 informed Speaker Leonard of his decision to vote yes on
14 prevailing wage, and then he cast that yes vote to repeal
15 prevailing wage.

16 Q. Did he describe at all how he believed his district wanted
17 him to vote on the repeal of prevailing wage?

18 A. Yes. He told us during the interview that it was his
19 belief or his position that his district wanted him to repeal
20 prevailing wage.

21 Q. Did you ask Mr. Inman questions about whether he was
22 contacted by any lobbyists for the unions after he cast his yes
23 vote?

24 A. I did, and he told me that he was contacted by union
25 representatives after the vote because they believed he was

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1 going to vote no. He told us that his response to those union
2 reps was that he voted the way his district wanted him to vote.

3 Q. At any point in your interview with Mr. Inman that day did
4 he tell you he voted yes because he needed to save
5 Representative Bellino?

6 A. No, he did not.

7 Q. Did you ask Mr. Inman questions about whether he had a
8 conversation on the phone with Lisa Canada after the prevailing
9 wage vote?

10 A. Yes. He recalled that a few days after the vote on
11 prevailing wage he received a phone call from Ms. Canada. He
12 told us that Ms. Canada called, she was unhappy with him, but
13 that she remained professional and calm during that
14 conversation. He told us that they discussed the prevailing
15 wage vote during that phone conversation. He told her that he
16 had not cashed the \$4,000 check. He offered to her, he told
17 us, to return that check, which he did after the phone call.
18 And he actually shared with us that he was surprised that
19 Ms. Canada did not ask for that check to be returned. She did
20 not bring up money at all. He actually told us that other than
21 that \$4,000 check they did not discuss any money during that
22 phone call.

23 Q. No discussion of any money on that phone call with
24 Lisa Canada?

25 A. Other than the \$4,000 check there was no discussion of any

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1 other dollar amount or money according to Mr. Inman.

2 Q. Did he tell you that after that phone call he in fact
3 returned that \$4,000 check to Lisa Canada?

4 A. Yes, he did.

5 Q. Now, at the time of your interview with Mr. Inman you
6 already had a copy of the June 3rd text message that Mr. Inman
7 sent to Lisa Canada; is that right?

8 A. That's correct.

9 Q. Did you ask Mr. Inman a series of questions to determine
10 whether he would admit to sending that text message to
11 Lisa Canada?

12 A. Yes, I actually asked him a series of questions really to
13 gauge his truthfulness of what he had told me that day.

14 Q. Did you ask Mr. Inman if he had asked Lisa Canada for more
15 money in the time leading up to the vote on prevailing wage?

16 A. Yes, I did, and he denied that.

17 Q. Did you ask Mr. Inman if he sent any text messages that
18 sought more money from Lisa Canada or the carpenters union?

19 A. Yes, I did, and he denied that.

20 Q. Did you ask Mr. Inman if he sent a text message to
21 Lisa Canada that referred to \$30,000?

22 A. Yes, I did, and again he denied that.

23 Q. Did you ask Mr. Inman if he had asked Lisa Canada for
24 \$30,000 at any point in the period leading up to the prevailing
25 wage vote?

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1 A. Yes, I did, and once again he denied having made that
2 request.

3 Q. Did you ask him if he asked for any amount of money from
4 Lisa Canada leading up to the prevailing wage vote?

5 A. In fact, I asked him if he had asked for any amount of
6 money from Lisa Canada or anybody else and he denied that as
7 well.

8 Q. So there were two different questions, whether he asked
9 for any amount of money from Lisa Canada --

10 A. Correct.

11 Q. -- and if he asked any amount of money -- asked for any
12 amount of money from anyone else leading up to prevailing wage
13 vote.

14 A. Correct, and he denied both of those.

15 Q. At the conclusion of your interview with Mr. Inman did you
16 ask him if everything he told you that day was the truth?

17 A. Yes, I did, and he told me that he was being truthful with
18 us throughout that interview.

19 Q. Agent Ashcroft, during -- tell me, about how long did this
20 interview last?

21 A. By estimation I would say that interview was probably,
22 again, close to two hours. Hour and a half to two hours.

23 Q. During that period of time when you're asking Mr. Inman
24 all these questions and he's providing this information did
25 Mr. Inman ever express or show any difficulties in

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1 understanding the questions that you were asking him?

2 A. No. Again, he seemed very lucid, coherent. You know,
3 formed what he told us. It was clearly formed. And, again,
4 seemed lucid and present.

5 Q. Do you have experience as an FBI special agent in
6 interviewing people who are using excessive amounts of drugs?

7 A. So in my years as an agent I worked a number of cases in
8 which I dealt with victims, and I had to interview victims and
9 witnesses, yes, some of whom were heroin addicts, opioid
10 addicts, cocaine addicts. I've had to deal with those
11 instances a number of times in my career.

12 Q. All right. And you've been an agent for 17 years?

13 A. A little over, yes.

14 Q. Did Mr. Inman during this interview at his house over this
15 approximately two-hour period demonstrate any of the things
16 that you have seen that known drug addicts or opioid addicts
17 would behave or act like during a --

18 *MR. COOKE:* Objection to foundation, Your Honor.

19 *THE COURT:* You can expand it a little bit more if
20 you want. He gave some general examples of interviews he's
21 conducted, but if you want to expand whatever training he's had
22 or what he noticed in those things, the foundation would be
23 stronger.

24 *MR. O'CONNOR:* Certainly.

25 Q. (BY MR. O'CONNOR) Agent Ashcroft, when you've described

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1 for us the number of witnesses or victims you've interviewed
2 that you knew to be opioid addicts, can you describe for the
3 jury some of the behaviors or indicators during that interview
4 that demonstrated to you that that was the case.

5 A. I guess I'm a little unclear. Of the prior addicts that I
6 had interviewed --

7 Q. Yes.

8 A. -- or of Mr. Inman?

9 Q. No, the prior addicts.

10 A. The prior addicts. You know, there's oftentimes a
11 nervousness and a twitchiness, for lack of another better term.
12 Maybe an apparent focus issue. Lots of distractions. Nervous
13 ticks. Are all some of the characteristics I've observed of
14 individuals that I knew to be drug addicts at the time I was
15 interviewing them.

16 Q. All right. And have you received any training in this
17 area in interviewing witnesses or victims with addictions?

18 A. No, it was on-the-job training.

19 Q. And so for how many years do you think you have
20 interviewed people like this that you have described, opiate
21 addicts?

22 A. So from 2014 right up through 2016, 2017, I worked a
23 series of cases that involved that. So it was over the course
24 of a couple of years. And I would say a handful or so of the
25 victims I've dealt with have been opioid addicts. In fact,

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1 I've driven some of them to rehab facilities so that they can
2 start getting treatment.

3 Q. During your interviews of any of those past witnesses or
4 victims with opioid addictions did they also demonstrate any
5 significant memory failures?

6 A. Actually, surprisingly, I was able to -- they had great
7 recollection of the events that they were retelling me. So I
8 did not observe any recall issues with those individuals.
9 Again, and those were individuals who were at times being
10 dropped off at rehabilitation facilities.

11 Q. Going back to your interview with Mr. Inman on August 1st,
12 did Mr. Inman demonstrate to you any cognitive impairment?

13 MR. COOKE: Your Honor, I object again. There's not
14 a foundation to have him opine whether or not
15 Representative Inman was suffering from opioid addiction.

16 THE COURT: He's already explained that he didn't see
17 any -- I think he described him as lucid, described him in
18 other words like that, so that seems to me repetitive.

19 Where you were going with the foundation was to see
20 if Mr. Inman displayed any of the same things that he observed
21 with known opioid addicts, and you can ask him about that.

22 Q. (BY MR. O'CONNOR) All right. Did you observe with
23 Mr. Inman any of the observations you had previously observed
24 with individuals you had interviewed that were known opioid
25 addicts?

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1 A. No, I did not observe that.

2 Q. Was there any evidence that morning that Mr. Inman was
3 intoxicated at the time of the interview?

4 A. I saw no indication of that.

5 Q. Did you smell any alcohol on his breath that morning?

6 A. I did not smell any alcohol on his breath.

7 Q. At any point during your interview with him on August 1st
8 did he say anything to you that he was having memory failures,
9 serious memory failures during the course of your interview?

10 A. No, he did not.

11 Q. Did he ever tell you during this interview that he
12 couldn't recall significant conversations or communications
13 that he had with Lisa Canada at the carpenters union?

14 A. No, he didn't. And, frankly, I didn't recall him -- or I
15 don't recall him having to ask me for clarification of my
16 questions. As I said, he seemed very much aware and
17 understanding of what I was saying and what he was relaying.

18 Q. At any point during your interview with Mr. Inman on
19 August 1st did he say anything to you about being in pain that
20 morning?

21 A. I don't recall him making any comments about being in pain
22 that morning.

23 Q. In your observations of his physical demeanor that
24 morning, did it appear to you that Mr. Inman was in physical
25 pain during the interview?

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1 A. No, he actually seemed relatively relaxed during the
2 course of the interview.

3 Q. Did he tell you at any point during your interview that he
4 was taking lots of prescription pain medication?

5 A. I don't recall him telling me he was taking any medication
6 at the time of the interview.

7 Q. He didn't say anything about medication he was taking?

8 A. No. Correct.

9 Q. And did he say anything to you -- strike that.

10 Did he tell you that day that he suffered from any side
11 effects from taking any prescription pain medication?

12 A. No, he did not.

13 Q. At any point during your interview did you have any
14 question in your mind about whether Mr. Inman was following
15 along and was providing you with answers to your questions?

16 A. No, I thought he was following along with the questions
17 being asked and he was providing answers that were responsive
18 to those questions.

19 Q. Did he have focus during the interview?

20 A. He appeared to be focused, yes.

21 Q. Was he staring out the window for long periods of time
22 during your interview?

23 A. Not that I noticed, no.

24 Q. Did you attempt to contact Mr. Inman after that day to do
25 a follow-up interview with him?

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1 A. Yes, in October I attempted to contact Mr. Inman and
2 schedule a follow-up interview.

3 Q. Okay. And were you able to reach him the first time you
4 reached out to him?

5 A. No, I actually called him and left a voicemail message for
6 him.

7 Q. Did Mr. Inman return your phone call that you made to him?

8 A. Yes, he did.

9 Q. And approximately when did Mr. Inman contact you by phone?

10 A. I believe it was October 18th or 19th of 2018.

11 Q. And did you talk to him on the phone for a period?

12 A. Yes, he called me and I was available and I answered that
13 call.

14 Q. Do you recall where you were at the time that he called
15 you?

16 A. Actually, I believe I was in my office.

17 Q. Okay. And how long -- approximately how long did this
18 conversation occur on the phone?

19 A. It was a relatively brief conversation. A few minutes
20 long I would estimate.

21 Q. All right. Did Mr. Inman indicate to you that he wanted
22 to meet with you again --

23 MR. COOKE: Objection, leading question, Your Honor.

24 THE COURT: Why don't we ask what he indicated to
25 him, unless there's more to the conversation that you need to

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1 avoid. But he said it was probably brief. He can probably
2 just tell us.

3 MR. O'CONNOR: Certainly. I'll withdraw it.

4 Q. (BY MR. O'CONNOR) What did Mr. Inman tell you during that
5 phone call?

6 A. He told me that after the FBI returned his cell phone he
7 reviewed his cell phone and the text messages in it. After
8 conducting his own review of that phone, he found messages that
9 he had sent, text messages that he had sent to the carpenters.
10 He told me that he wanted to explain the context of those
11 messages. He realized after reviewing them that it appeared
12 that he was pressuring the carpenters for money. He also told
13 me that he wanted to come in for an interview because he wanted
14 to tell us the truth.

15 Q. If you could, Agent Ashcroft, turn to tab 47 in your book.

16 A. Tab 47?

17 Q. Yes.

18 A. Okay.

19 Q. What's depicted in Government Exhibit 47?

20 A. So this is a portion of the forensic report of the data
21 extracted from Mr. Inman's cell phone.

22 Q. And what period of time in universal coordinated time does
23 this period cover?

24 A. This is June 2nd through June 4th, 2018.

25 Q. All right. And I believe we heard testimony from

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1 Walker Sharp that you have to subtract four hours from
2 universal coordinated time to get the Eastern Time Zone for
3 these text messages?

4 A. During the daylight savings time period, yes, it's a
5 four-hour subtraction.

6 Q. Have you had an opportunity to review these messages prior
7 to today?

8 A. Yes, I have.

9 MR. O'CONNOR: The government moves to admit.

10 THE COURT: It's already in.

11 MR. O'CONNOR: I'm sorry, it's already in.

12 If we can display Government Exhibit 47, please.

13 Q. (BY MR. O'CONNOR) Agent Ashcroft, a general question: Is
14 this an eight-page document?

15 A. Yes, it is.

16 Q. And did you review all eight pages of this exhibit?

17 A. Yes, I did.

18 Q. Describe for the jury in general what you observed in the
19 string of text messages that appears in this exhibit on these
20 dates.

21 A. Yeah, what I've observed is over the course of these few
22 days there's instances where Mr. Inman is sending a number of
23 texts. Sometimes a message every couple of minutes or so. In
24 general you're seeing kind of social and I guess professional
25 or sometimes political exchanges with various people. Those

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1 are messages that are both sent by Mr. Inman and received by
2 Mr. Inman.

3 In general he is talking about -- or included in these I
4 should say he is talking about campaign activities, he is
5 scheduling events and kind of carrying on what would seem to be
6 a normal life existence, if you will.

7 Q. If we could look -- let's zoom in on this particular
8 content right here. Were some of the text messages he was
9 sending on June in this time period reflected in 47 extensive,
10 detailed discussions of certain issues and events?

11 A. Yes, they were.

12 Q. And were there also -- did you also find examples where
13 there were much shorter text messages?

14 A. Yes.

15 MR. O'CONNOR: Turn to page 3, please. This section
16 here.

17 Q. (BY MR. O'CONNOR) Did you find any evidence that
18 Mr. Inman was communicating with his campaign manager for his
19 re-election campaign?

20 A. Yes, actually he had a number of contacts with his
21 campaign manager, Ashleigh Ackerman, about the logistics, about
22 the finances in his campaign account, and about events they may
23 be doing.

24 Q. Was there evidence in here that Mr. Inman was coming up
25 with a campaign strategy and tactics for his re-election

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1 campaign?

2 A. Yes.

3 MR. O'CONNOR: Page 7, please. This top section
4 here.

5 Q. (BY MR. O'CONNOR) Did you find evidence in this time
6 period that he was texting with his campaign manager
7 Ashleigh Ackerman about the money for his campaign?

8 A. Yes, he was recalling, you know, how much he may have
9 raised at certain events and balances in his campaign account.

10 Q. And in fact we're looking at one reference right here
11 where he's telling his campaign manager that he has \$30,000 in
12 his campaign account; is that right?

13 A. That's correct.

14 MR. O'CONNOR: If we can zoom out and come back to
15 this message here.

16 Q. (BY MR. O'CONNOR) Did you find evidence that Mr. Inman
17 was asking his staff to schedule meetings with people during
18 this period of time?

19 A. Yes, schedule meetings and engage with certain people on
20 certain topics, yes, I did find those.

21 MR. O'CONNOR: Thank you. If we could publish
22 Exhibit 48, please.

23 Q. (BY MR. O'CONNOR) Agent Ashcroft, did you review the
24 Cellebrite extraction report of Mr. Inman's phone for text
25 messages that covered August 1st, 2018?

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1 A. Actually, yes, the days leading up to August 1st and
2 August 1st, correct.

3 Q. All right. And this would be text messages Mr. Inman sent
4 and received in the time period leading up to your interview on
5 August 1st?

6 A. Actually this portion of the report and the other one,
7 it's part of what's the timeline of the report. So it includes
8 not just text messages but multimedia messages and call log
9 information. So it's more than just text messages.

10 Q. I see. Okay. And without going through in detail here,
11 did you find text messages in this time period indicating that
12 Mr. Inman was having text conversations with multiple
13 individuals about many different topics?

14 A. Yes. I believe he even had some in here where he was
15 talking about campaign door-knocking activities that they did
16 in the neighborhoods that they had visited on the 31st of July.

17 Q. All right. Did you find any evidence that Mr. Inman was
18 also participating in presentations with Amelia Earhart, his
19 Amelia Earhart interests?

20 A. Yes, I did.

21 Q. Thank you, Agent Ashcroft. No further questions.

22 *THE COURT:* All right. We can go to Mr. Cooke's
23 cross.

24 *MR. COOKE:* Yes, Your Honor. Thank you.
25

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CROSS-EXAMINATION

BY MR. COOKE:

Q. Good afternoon, sir.

A. Good afternoon.

Q. I'd like to start just by going back over a couple of exhibits that Mr. O'Connor put up. In that first --

MR. COOKE: First can we see 38, please?

THE COURT: I don't think 38 is in. It must be a different number. That's 36.

MR. COOKE: Six. 36. Thank you, Your Honor.

Q. (BY MR. COOKE) Can you just tell us what the line --

MR. COOKE: Can you focus on the adjusted gross income for that year?

THE COURT: You can also touch the screen and highlight an issue.

MR. COOKE: This one right here. Can we do that? Kind of blow it up?

Q. (BY MR. COOKE) So it says adjusted gross income for 2018 was \$130,371,000, right?

A. Correct.

Q. Is there any reason you showed the 52,000 instead of the 130?

A. Yes, we were showing where he was noting his employment was from. So those were the wages from his employment.

Q. So there wasn't some indication that he didn't have

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1 financial resources in 2018, is it?

2 MR. O'CONNOR: Objection. This is argumentative.

3 THE COURT: I mean, this is one of those
4 building-block issues where when we get to the technical
5 elements of the charges the parties will have differences of
6 opinion about whether the government has made its burden. And
7 the government is going to argue evidence of employment income
8 from the State of Michigan is part of the way it will meet its
9 burden, so --

10 MR. COOKE: Thank you, Your Honor.

11 THE COURT: -- it's a technical building-block issue.

12 Q. (BY MR. COOKE) All right. To be clear, you weren't
13 introducing that to show that Representative Inman didn't have
14 sufficient finances in 2018?

15 A. It was to show that he was an employee of the State of
16 Michigan and received salary from the State of Michigan.

17 Q. All right. I understand. Thank you.

18 MR. COOKE: And then Exhibit 47, please. Can we just
19 zoom in on this?

20 Q. (BY MR. COOKE) This is the text messages from June 2nd
21 and 3rd? Is that what that is? That's hard to read.

22 A. The one you've got zoomed in is a message from June 2nd.

23 Q. June 2nd. All right. And here Mr. Inman is reporting --
24 do we know who this is to? Can we see that area over there?
25 No. I think the recipient would be over here.

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1 A. Actually, no, it's the third column from the right is the
2 recipient. It shows his phone number and the name Art.

3 Q. Oh. So this doesn't have the --

4 A. So that's who it's to. So all of these would be from. In
5 this instance that's to Art from Mr. Inman.

6 Q. And here in the middle he says "I have 30,000 in my
7 campaign account, a fundraiser in Lansing on June 13th, and
8 another on July 6th in the district. Each should get me 10,000
9 each. I will have another event in Lansing, an event in
10 September, and a district event to get \$70,000 total." Right?

11 A. That's what it states, yes.

12 Q. All right. So it looks like he had plans to raise the
13 money he needed?

14 A. Plans, yes.

15 Q. Well, did you follow up to see if he in fact raised the
16 money he needed in those events?

17 A. Well, I saw a text message later where he raised \$8,900
18 from that June 13th event.

19 Q. All right. But did you follow up with any of these others
20 to see how much he raised independent of any donations from the
21 House Republican caucus or campaign fund?

22 A. No, I did not follow up specific to the event other than
23 seeing the June 13th claims of \$8,900.

24 Q. All right, sir. And the bank account records were what?
25 They were the Huntington bank records showing the amount he had

CROSS-EXAMINATION OF JEREMY ASHCROFT

1 in his campaign of 38,000?

2 A. The ending balance for June 2018 was 38,000 plus or minus.

3 Q. And you did mention another record you found at
4 Huntington Bank that showed that Representative Inman was a
5 trustee of a large trust, right?

6 A. Actually, I know that there were seven accounts that he
7 had with Huntington National Bank. And there were three trusts
8 at Huntington National Bank.

9 Q. Okay. One was a Charles Fultz Trust that he was --

10 A. No, two were actually Charles Fultz trusts.

11 Q. Two. Did you learn that he was trustee of those trusts?

12 A. I did.

13 Q. And those trusts had over a million dollars in them; is
14 that right?

15 A. One was a little under a million and one was a little over
16 a million.

17 Q. All right. We haven't seen those records yet, have we?

18 A. We did not put them up now, no.

19 Q. And did you ever look at any trust documents from
20 Huntington Bank to see if Representative Inman had the ability
21 to compensate himself for his work as a trustee?

22 A. I did review documents from Huntington, and I did see that
23 he made draws from those, the Charles Fultz Trust, and there
24 were checks cut to others from that trust as well. It did not
25 appear to me that he was the sole recipient of funds from the

CROSS-EXAMINATION OF JEREMY ASHCROFT

1 Fultz trusts.

2 Q. Did you ever get the trust documents themselves that gave
3 him authority to do whatever he did with the trusts?

4 A. I don't recall if those were produced by Huntington.

5 Q. Well, they wouldn't have them. Those would be probably
6 private documents. Probably at Mr. Inman's home.

7 When you did your search warrant did you ask for anything
8 like that?

9 A. I did not. In fact, we didn't get the Huntington records
10 until after that search, so we did not know that he was a
11 trustee of a trust at the time of the search. Nor were we
12 executing a search warrant for documents. It was only for his
13 cell phone.

14 Q. Understood. But if Charles Fultz, the Charles Fultz
15 Trust, if he had appointed Representative Inman to be the
16 trustee over a million-dollar trust, at least from
17 Charles Fultz's perspective Representative Inman was very
18 trustworthy?

19 A. I don't know how Mr. Fultz felt about that. And I don't
20 know how he became the trustee of that account.

21 Q. And you didn't do any investigation to find any of those
22 things out, did you?

23 A. Regarding the Fultz trust?

24 Q. Yes, sir.

25 A. I did not explore the Fultz trust, no.

CROSS-EXAMINATION OF JEREMY ASHCROFT

1 Q. There's another thing that I'm interested about, and that
2 is you looked at some -- a group of text messages around that
3 June 2nd and 3rd time period where it looks like
4 Representative Inman, according to your description as I
5 understand it, seems to be functioning normally. Is that
6 correct?

7 A. That was how I read those, yes. They were seemingly
8 typical text messages.

9 Q. And at some point during your investigation you met a
10 second time with Representative Inman and had a much longer
11 interview when I was present, correct?

12 A. In December, yes.

13 Q. December. And in that -- that interview was conducted in
14 Lansing at your office?

15 A. Correct.

16 Q. All right. And Representative Inman willingly came into
17 your office in Lansing to be interviewed a second time?

18 A. That's correct.

19 Q. And you had another staff member with you, another agent?

20 A. I had another agent, yes.

21 Q. And who was that?

22 A. That was Special Agent Andrew Decoster.

23 Q. Decoster. And do you recall during the course of that
24 interview, which lasted what, about an hour and a half?

25 A. I think that's a fair approximation.

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1 Q. All right. During the course of that hour-and-a-half
2 interview Representative Inman disclosed to you that he had a
3 bad problem with prescription medication abuse?

4 A. What Mr. Inman told me was that beginning in about May of
5 2018 he started taking pain medications. He told me that he
6 had actually gotten to a point after May of 2018 of taking 12
7 to 15 Norcos per day. By the time of that interview in
8 December of 2018 he told me that he was wearing a fentanyl
9 patch and yet was still taking four Norco per day.

10 Q. All right. And then when he told you that, your reaction
11 to him was something along the lines of "I don't believe that
12 bullshit," right?

13 A. I don't believe I ever swore at Mr. Inman during that
14 interview.

15 Q. All right. Is that your testimony under oath, sir, that
16 you didn't say "I don't believe that bullshit," something to
17 that effect?

18 A. Well, I guess that's different, because if you're asking
19 me to that effect, that's different. I will testify that I
20 never swore at Mr. Inman. I did not say "I don't believe that
21 bullshit."

22 Q. What did you say that had "bullshit" in it?

23 A. I don't believe I said anything that said "bullshit."

24 Q. Well, I was sitting right there as Representative Inman --

25 THE COURT: Well, you're not going to testify, are

CROSS-EXAMINATION OF JEREMY ASHCROFT

1 you?

2 Q. (BY MR. COOKE) All right. Well, in any event, when you
3 learned that Representative Inman was reporting that he had
4 this bad prescription medication issue, did you do any
5 investigation to determine whether or not he was suffering from
6 that at or around the time when this prevailing wage vote was
7 being taken?

8 A. No. And actually he told me that he was experiencing
9 pain. He told me that, again, in May of 2018 is when he
10 started taking these Norco pills. But actually he didn't share
11 with me during that interview that he was feeling any
12 impairment. His only side effect was that he experienced dry
13 mouth and he asked for a glass of water. We gave him a glass
14 of water. He didn't share any indication of impairment, nor
15 did he share any indication of him being prescribed
16 incorrectly. He told me that he was receiving those pills
17 under the guidance of a doctor and was being treated by a
18 doctor.

19 Q. Did he also tell you at that time that he had a fentanyl
20 patch?

21 A. Yes, he told me he was on a fentanyl patch. That he had
22 actually gone from taking 12 to 15 Norco a day to a fentanyl
23 patch and four Norco a day.

24 Q. Do you think 12 to 15 Norcos a day would be anything that
25 a doctor would prescribe?

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1 MR. O'CONNOR: Objection, foundation.

2 THE COURT: Yeah, I mean, I don't know if he has any
3 foundation. We can find out if he does.

4 Q. (BY MR. COOKE) Well, do you think that 12 to 15 --

5 THE COURT: Well, it's not what he thinks. He's not
6 a physician. We have to find out if he's trained or has any
7 basis to understand what the prescription was.

8 Q. (BY MR. COOKE) You've testified that you've dealt with
9 opioid addicts; is that right?

10 A. That's correct, heroin addicts primarily, yes.

11 Q. Heroin. Not prescription medication addicts?

12 A. No, heroin addicts.

13 Q. So my question is: Have you ever dealt with someone who
14 was addicted to prescription medication?

15 A. Heroin addicts is what I'm telling you I've dealt with.

16 Q. I'm sorry.

17 A. They will get it where they can. Sometimes it's a pill.
18 Sometimes it's fentanyl. The people I've dealt with were not
19 typically receiving that -- to my knowledge not getting it from
20 a doctor.

21 Q. All right. So how about those folks that receive
22 prescription medication from a physician that has an opioid
23 basis in it, have you dealt with anybody who has that kind of
24 an addiction problem?

25 A. Clarify that for me again one more time.

CROSS-EXAMINATION OF JEREMY ASHCROFT

1 Q. Well, gets addicted to pain medication that's properly
2 prescribed. That gets addicted to pain medication. Have you
3 ever dealt with anybody that has that problem?

4 A. No, people I've dealt with primarily had an addiction
5 stemming from heroin use.

6 Q. So the answer would be "no" to my question?

7 A. I just said "no." Yes, it was heroin.

8 Q. And so you don't -- when he reports he was taking 10 to 15
9 a day, you have no idea if that was proper, improper, or what
10 effect that might have had on him?

11 A. It seemed like a lot, but truth be told, I didn't know
12 that Mr. Inman was being truthful with me at that time. I
13 didn't necessarily believe him. I was seeking a determination
14 as to whether Mr. Inman was going to be truthful. He actually
15 was untruthful throughout that December interview with us. So
16 if somebody is not truthful with me -- and this is why we use
17 these things we know as gauges of truthfulness like the text
18 messages -- it makes it really hard to believe a person if they
19 can't admit to those things that we've confronted him with.
20 And we've confronted him with those text messages and the
21 phone call with Ms. Canada. And even after listening to that
22 phone call with Ms. Canada, he couldn't recall talking about
23 \$30,000. So his truthfulness was in question in my eyes
24 throughout that December interview.

25 Q. Did you understand my question?

CROSS-EXAMINATION OF JEREMY ASHCROFT

1 A. Yes.

2 Q. All right. When you learned that Representative Inman was
3 saying he was taking 10 to 15 Norcos a day, did you do anything
4 as part your investigation to determine whether or not that was
5 an appropriate prescription?

6 A. No.

7 Q. Did you do anything as part of your investigation to
8 determine whether or not that would have an effect on his
9 cognitive abilities?

10 A. Not until after it was raised as a potential defense.

11 Q. Not until it was raised and the Court was notified that
12 that was an issue, then you took a look at it?

13 A. Then it was explored.

14 Q. All right. So when -- you had Representative Inman's
15 cellular phone and all the data and information from his
16 cellular phone since August 1st of 2018, correct?

17 A. Yes.

18 Q. And then in December of two thousand and -- I'm sorry, was
19 that '18?

20 A. Yes, December 2018, right.

21 Q. Was the second interview where he reported having this
22 problem, right?

23 A. Yes.

24 Q. Did you ever take out that Cellebrite report and run a
25 search for pain or Norco?

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1 A. No, I did not.

2 Q. Is it your role as an investigator to uncover the truth,
3 sir?

4 A. It is my role to uncover the truth.

5 Q. All right. And when -- the fact that Representative Inman
6 revealed this to you that he was taking these prescriptions,
7 did you feel it was important or might be important for you to
8 look in his cell phone to see if he was reporting problems
9 associated with something?

10 A. Mr. Inman never made an allegation --

11 Q. Sir, answer my question.

12 A. Mr. Inman never made an allegation that there was any
13 wrongdoing in the prescribing of medication to him.

14 Q. No, he didn't say that, but did he tell you he was taking
15 these large doses of prescriptions?

16 A. He told me that in the past he had taken as much as 12 to
17 15. At the time of the interview he was on a fentanyl patch
18 and taking four. That it was being managed by a doctor.

19 Q. All right, sir. So I have a proposed exhibit here,
20 Defendant's Exhibit H. Have you had a chance to review this
21 document?

22 A. Sure.

23 MR. COOKE: With the Court's permission?

24 THE COURT: Have you seen it?

25 MR. O'CONNOR: I object, Your Honor. This is not

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1 admissible.

2 *THE COURT:* Well, I don't know what it is, so
3 somebody better show me.

4 What is this?

5 *MR. COOKE:* This is a search of the Cellebrite phone
6 if you run "Norco" and "pain," and these are some of the text
7 messages that come out from that between Representative Inman
8 and a variety of people that are close to him including his
9 physicians.

10 *THE COURT:* All right. Okay. Well, I haven't looked
11 at it. Your objection is hearsay?

12 *MR. O'CONNOR:* Hearsay.

13 *THE COURT:* And that would be my initial reaction.
14 There's too many pages to look at. I'll look at it while you
15 go on to another topic.

16 *MR. COOKE:* All right. Thank you, Your Honor.

17 *Q. (BY MR. COOKE)* Have you ever heard the term
18 "functional alcoholics"?

19 *A.* Yes.

20 *Q.* What is your impression of a functional alcoholic?

21 *A.* My personal impression of a functional alcoholic is just
22 that, somebody who can -- who has perhaps an alcohol addiction
23 but is able to function significantly for a significant part of
24 the day or their life.

25 *Q.* Did you hear testimony from Representative Bellino that he

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1 thought Representative Inman was a functional alcoholic?

2 A. That's how -- yes, I did hear that.

3 Q. Did you hear testimony from Trey Hines that he observed
4 Representative Inman to have difficulty and he believed it was
5 difficulty associated with taking too much prescription
6 medication?

7 A. I recall hearing Trey Hines talk about some difficulty
8 that he observed -- difficulties he observed with Mr. Inman,
9 yes.

10 Q. You interviewed Trey Hines on two occasions, right?

11 A. Correct.

12 Q. And on either one of those two occasions when you
13 interviewed Trey Hines did you ask him any questions that would
14 have led to the testimony he gave in front of this jury today
15 where he believed Representative Inman was taking too much
16 prescription pain medication?

17 A. I don't recall him -- and actually I would be glad to
18 review my report -- but I don't recall him bringing up that
19 specific aspect with us.

20 Q. Wouldn't that be interesting -- wouldn't that be important
21 for you to know that if you're searching for the truth?

22 A. Yes.

23 Q. As to whether people close to Representative Inman
24 observed problems with him.

25 A. If somebody doesn't offer that to me, I can't read their

CROSS-EXAMINATION OF JEREMY ASHCROFT

1 mind. If somebody doesn't tell me that, I don't know that. I
2 would be glad to review my report to see if Mr. Hines reported
3 that to me.

4 Q. Your last interview with Trey Hines was just a few weeks
5 ago, right?

6 A. Correct.

7 Q. And in the meantime you had interviewed numerous people
8 and asked them the same question as to whether or not they
9 observed any problem with Representative Inman's cognitive
10 abilities, true?

11 A. True.

12 Q. And I see that question being asked of every person who
13 might have come in contact with Representative Inman other than
14 Mr. Hines. Why wouldn't you ask him?

15 A. The first time I actually tried to interview -- well, not
16 actually -- the first interview of Mr. Hines I did try to ask
17 him about his observations of Mr. Inman and we would have
18 gotten into that. He declined to answer those questions at
19 that time.

20 Q. All right. But the second interview?

21 A. The second interview we actually were asking about his --
22 Mr. Inman's mental cognition and his ability to function. It
23 was not specific as to drugs and alcohol use. It was just
24 about his mental cognition.

25 Q. And did Mr. Hines report to you those things that he said

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1 from the witness stand today about mental cognition of
2 Representative Inman?

3 MR. O'CONNOR: Objection, prior inconsistent
4 statement. No basis for that.

5 THE COURT: Well, I mean, I think we're talking now
6 about the second interview.

7 MR. COOKE: Second interview, Your Honor.

8 THE WITNESS: I can tell you I heard things today
9 from Mr. Hines that I had not heard in the interviews. The
10 first -- this was the first I had heard him talk about his
11 observation of a fentanyl patch and prescription medications.
12 He did tell us about the physical difficulties Mr. Inman
13 experienced and his driving Mr. Inman down in January of 2018,
14 but there was not an extensive discussion regarding his
15 concerns over prescription medication use.

16 Q. Well, he also told you that he observed
17 Representative Inman to be forgetful, correct?

18 A. Yes, he did.

19 Q. And he told you that he observed Representative Inman to
20 come back in the afternoon and crash on his couch?

21 A. Correct.

22 Q. And he told you that over the course of 2018 that seemed
23 to progress to a point where they were concerned about his
24 well-being; is that true?

25 A. That's what he testified to today, correct.

CROSS-EXAMINATION OF JEREMY ASHCROFT

1 Q. But you didn't explore that with him in your interview?

2 A. He didn't mention that in the interview.

3 Q. But you're the professional investigator. Wasn't it
4 your -- important for you to understand if Representative Inman
5 really was suffering from a problem at the time of this vote?

6 A. Well, the relevance to the investigation is not
7 necessarily there. The investigation is regarding Mr. Inman's
8 attempt to sell his vote on prevailing wage. His well-being
9 and -- physical well-being, if you will, in December of
10 2018/January of 2019 as testified to by Mr. Hines isn't
11 relevant to the June 2018 activity or that August 1 interview.
12 And as Mr. Hines testified, it progressed to a point that was
13 worse essentially after charging. And, again, he hadn't shared
14 that with me in the interview, so I can't get to the bottom of
15 something that's really not disclosed to me.

16 Q. Well, I thought Mr. Hines -- and correct me if I'm wrong
17 on this -- I thought Mr. Hines testified that from the time he
18 started driving Representative Inman back and forth from the
19 hospital --

20 THE COURT: Well, you know, we've all heard the
21 testimony, and you're probably going to argue different things
22 about what it means. So let's get additional information, if
23 there is any, and we can argue the meaning of what everybody
24 has heard to the jury down the road. We're just kind of going
25 over stuff we've done before, right? And we heard today.

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1 MR. COOKE: I defer to the Court. All right, sir.

2 Q. (BY MR. COOKE) You first got involved in this
3 investigation when you received a referral from the
4 State Police; is that right?

5 A. Actually it went through our Detroit office's management
6 and eventually got to me. But yes, that is the catalyst, if
7 you will.

8 Q. And did you talk to the State Police person who took the
9 report from Ms. Canada?

10 A. She's a bureau task force officer, yeah. Actually, strike
11 that. There was no report taken by the Michigan State Police.
12 So I did talk to the person who sent the email to the FBI to
13 our management team making that referral. So just to be clear,
14 there's no Michigan -- as I understand it and as I've been told
15 by Michigan State Police, there's no police report.

16 Q. Oh. I thought when you came in to report what you
17 perceived to be a crime that there would be a police report of
18 some kind.

19 A. I don't work for the Michigan State Police. I don't
20 handle their policies. It was referred to the FBI. The FBI
21 initiated an investigation.

22 Q. All right. So you don't know who Ms. Canada talked to at
23 whatever Michigan State Police post she went to?

24 A. What's been conveyed to me is she went to somebody at the
25 Oak Park post. That person directed her to a task force

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1 officer who is a Michigan State Police trooper assigned to the
2 FBI's public corruption task force, and it's that task force
3 officer that provided a summary of the allegations to the FBI.

4 Q. All right. And when you spoke to Ms. Canada did you know
5 at that time that she was very upset with Representative Inman?

6 A. I found that out as a result of interviewing Ms. Canada.

7 Q. And did you find out from her that this prevailing wage
8 issue was the number one ballot issue in 2018 for the unions?

9 A. I knew that -- she did share with us that prevailing wage
10 was their top concern in 2018, yes.

11 Q. And did she also share with you that when she sent these,
12 this text message, or received this text message from the
13 lobbyist and they had this group texting together, that she
14 indicated if he -- "If Representative Inman votes the wrong
15 way, I will spend every dollar I have on his opponent"? Did
16 you see that text message at that first interview?

17 A. Which one? Can you show me that text message?

18 Q. Sure.

19 MR. COOKE: With the Court's permission, Your Honor?

20 THE COURT: All right.

21 MR. O'CONNOR: Number? Which exhibit number are you
22 looking at?

23 MR. COOKE: Well, it's attached to his report. Oh,
24 it's your Exhibit I. No, it's not. I'm not sure which
25 exhibit.

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1 MR. O'CONNOR: Thank you.

2 Q. (BY MR. COOKE) I'm referencing the asterisk 1 down there
3 on the bottom.

4 A. Okay. If you could ask me your question again, please.

5 Q. I just wondered if when you first talked to Ms. Canada if
6 she showed you that particular text message.

7 A. Yes, this was from our first interview. She showed this
8 message to me and she allowed me to take pictures of it.

9 Q. All right. And is there a statement that she --
10 attributable to her where she says "If he votes the wrong
11 way" --

12 MR. O'CONNOR: Objection.

13 THE COURT: This is cumulative again. I mean, you
14 know, we all heard that. And he just said he passed it on that
15 that's what he learned at the first interview. So we need to
16 do new things. We don't have to rehash things we've already
17 done.

18 Is there something else you want to find out about
19 that from this witness?

20 MR. COOKE: Yes, Your Honor, there is.

21 Q. (BY MR. COOKE) Did she reveal to you that she had a --
22 did you feel like she had a vendetta against
23 Representative Inman?

24 A. No, I did not.

25 Q. And why so?

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1 A. She actually came across very professional. She felt and
2 believed strongly that what Mr. Inman did by soliciting \$30,000
3 for his vote on prevailing wage was wrong. She felt she needed
4 to report that. But I would not describe the way she responded
5 as a vendetta.

6 She also, you know, wanted to take other certain steps,
7 but she was very reasonable about it in my opinion.

8 Q. Sir, you continue to say that Representative Inman
9 solicited \$30,000 from the union. Where is your evidence of
10 that? Where is your information that he solicited \$30,000 from
11 the union?

12 A. In this text message that he sent to Ms. Canada and the
13 text message he sent to Mr. Kirsch on June 3rd.

14 Q. Does he say in this text message that the carpenters
15 have --

16 *THE COURT:* Before we go into that, we're going to be
17 into a new topic, and I think we need to break for the day.

18 *MR. COOKE:* Thank you, Your Honor.

19 *THE COURT:* So are you still on track from the
20 government's perspective to rest tomorrow based on what you
21 think so far?

22 *MR. O'CONNOR:* Yes. Tomorrow morning.

23 *THE COURT:* Okay. All right. So I'm going to send
24 you home now because it's 2:00. We're obviously in the middle
25 of an exam, but that's what happens sometimes.

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1 Please come again tomorrow at 8:30, be ready to
2 start. You never know for sure what happens. Things develop
3 and change, but the best expectation of the parties right now,
4 as you just heard, is that the government will probably finish
5 its proofs sometime tomorrow. Maybe tomorrow morning. It
6 doesn't mean you're likely to get the case tomorrow, though.
7 Because even if the defense decides to put on no case, and
8 we'll find out what they decide to do -- remember, they don't
9 have to do anything -- but even if they decide to put on no
10 case, you still have to have instructions from me and an
11 opportunity for closing argument, and I'm not confident we'd be
12 able to get that ready for you in time to really submit it to
13 you tomorrow. So count on 8:30 to 2 tomorrow. We'll go as far
14 as we can. If the defense has it's own case and the government
15 rests as it expects, we'll go into the defense case. I think
16 you're likely to get the case Monday, possibly Tuesday, but
17 we'll know more about that when we get to the end of the day
18 tomorrow. So tomorrow plan on 8:30 to 2 as we've been doing.
19 Thanks for your ongoing attentiveness, and I will see you and
20 look forward to seeing you tomorrow morning.

21 *(Jury exited the courtroom at 2:00 p.m.)*

22 **THE COURT:** So I haven't had a chance to go through
23 all of H. My initial reaction is there's some that's clearly
24 inadmissible and some that might be admissible under the
25 then-existing state of mind or condition exception.

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1 For example, on the first page I don't know what the
2 basis would be for the first one which appears to be a message
3 to either a physician or a prescriber asking for a refill.

4 Similar, the next one really has things that I don't
5 think fit within the exception.

6 But the third one to Ms. Ackerman, "I'm so miserable
7 in my lower back and down the back of my legs" and so forth. I
8 mean, that's probably a then-existing condition, might come in
9 under the hearsay exception. Assuming the government agrees
10 that the extraction source is authentic. And if it came from
11 the extraction report that everybody has been talking about,
12 that one might do it.

13 There are other ones that combine some statement
14 about pain but then start to get into historical facts. You
15 know, that's outside the exception. So the document as is I
16 don't think comes in. But it might be possible to clean up
17 some of the entries that would fit within a legitimate hearsay
18 exception of a person's report of pain.

19 And alternatively, I don't know if anybody is going
20 to call Ashleigh Ackerman, but those kinds of things could come
21 up during testimony like that.

22 If there are other exhibits either like this or
23 others coming, you know, where we know we're going to have an
24 issue, let's try to clean it up. I don't know whether we'll
25 have time today or not. But clean it up in a way that we don't

CROSS-EXAMINATION OF JEREMY ASHCROFT

1 have to take up the jury's time once we're here. But that's my
2 initial reaction as far as I've gotten on H.

3 From your perspective first, Mr. O'Connor, what about
4 that -- something like I guess it's the third entry on the
5 first page -- what about that wouldn't be at least potentially
6 admissible under the 803(3) exception?

7 *MR. O'CONNOR:* Well, part of it includes statements
8 about what he will do in the future, and so, you know, my
9 principal objection is that there's lots in here where it's
10 mixed.

11 *THE COURT:* Right. What about the first line? "I'm
12 so miserable in my lower back pain and down the back of my
13 legs." I mean, that sounds like a then-existing physical
14 condition statement.

15 *MR. O'CONNOR:* That does sound consistent with the
16 rule, Your Honor. What I'm trying to avoid is --

17 *THE COURT:* And the next might not be because that's
18 historical fact which is not within that exception. I guess
19 the future thing isn't within the exception either. Though I'm
20 not sure that one helps either side all that much.

21 So all I'm saying is there could be things that could
22 potentially be cleaned up that both sides would say, "Yeah,"
23 like that first sentence, "it can come in." If you can't do
24 that, then the exhibit as is I wouldn't admit. I'm just saying
25 there might be some pieces of it that could come in.

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1 MR. O'CONNOR: And the government is willing to work
2 with Mr. Cooke to try to reach an agreement on that.

3 THE COURT: All right.

4 MR. O'CONNOR: And I'm happy to meet with him this
5 afternoon.

6 THE COURT: Turning to Mr. Cooke, your theory on
7 admission outside something like "I'm so miserable in my lower
8 back," something that would fall within 803(3), what other
9 exception would you be relying on for getting this in?

10 MR. COOKE: Well, the other thing, Your Honor, is
11 it's to show what we believe to be a lack of a thorough
12 investigation by the FBI as it pertains to my client's
13 revelation that he was suffering from pain, taking Norco, and
14 had some cognitive dysfunction as a result of it.

15 THE COURT: Okay. So you're arguing there was a
16 nonhearsay purpose, that if all of this was on the -- or
17 available in the extraction, they could have found it and gone
18 on and done it?

19 MR. COOKE: Yes, Your Honor.

20 THE COURT: Okay. I guess my reaction to that is
21 two-fold: One, I don't think that's really very relevant and
22 certainly, I think, would be excludable on 403 grounds because
23 this is information that's equally available to both sides. So
24 I don't -- you make the point and have made the point, and the
25 agent obviously didn't believe what Mr. Inman was telling him

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1 about certain things, but I think on that basis I would have
2 other grounds that I wouldn't allow you to put it in as is.

3 Would there be any other exception you would be
4 relying on or other --

5 MR. COOKE: Those would be principally the two that I
6 would rely on.

7 THE COURT: So you can work with Mr. O'Connor. There
8 may be some entries that you both agree would fall within
9 803(3). You might have some you want to disagree on, and I can
10 rule on them if I know in advance what the issues are. And
11 then, you know, anything else that either side can reasonably
12 anticipate coming up like this, let me know as soon as possible
13 so I can start looking at it and be ready to rule without
14 taking any time out of the jury.

15 MR. COOKE: Thank you, Your Honor.

16 THE COURT: Okay. Are there other issues like that
17 now that either of you expect?

18 MR. COOKE: I don't anticipate another one like this,
19 Your Honor.

20 THE COURT: Okay. The one you were just looking
21 at -- well, I guess you're going on now to the emails that were
22 part of the Indictment, or the text messages, so that's a
23 different topic.

24 Once you're finished with the special agent, do you
25 have a preview of who is coming tomorrow?

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1 MR. O'CONNOR: We need to discuss that tonight,
2 Your Honor.

3 THE COURT: All right.

4 MR. O'CONNOR: We're not prepared to commit to our
5 plan for tomorrow morning.

6 THE COURT: So you have -- whatever it is probably
7 isn't going to take the whole day?

8 MR. O'CONNOR: Yes.

9 THE COURT: Okay. Then when you rest, whenever that
10 is, I will take a break, no matter where we are in the case, so
11 you can make your Rule 29 motion.

12 You know, I want, to the extent possible, to have the
13 parties focus on whatever technical deficiencies you see in the
14 proofs. You know, certainly make your record, but obviously
15 neither side needs to make their jury argument to me on the
16 fundamental issue. But if you think from the defense
17 perspective there's been a failure of proof on something, I
18 should know what that is.

19 MR. COOKE: Thank you, Your Honor.

20 THE COURT: Okay. And then do you know yet whether
21 you'll put on an affirmative case? I was looking through the
22 witness list that you submitted which was helpful in advance,
23 and a lot of the people you had on it have already been called.

24 MR. COOKE: True.

25 THE COURT: Not quite everybody.

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1 MR. COOKE: True.

2 THE COURT: So do you know where you are on that?

3 MR. COOKE: I do have some witnesses, Your Honor,
4 that I'll be calling.

5 THE COURT: Okay. And in terms of the overall time
6 frame -- and I know you still have to decide whether or not
7 Mr. Inman is going to testify -- but if the government finishes
8 let's say sometime before noon, that by noon we're up to your
9 side, when do you think you'd be in a position to rest in all
10 likelihood?

11 MR. COOKE: Likely it will be still about a day and a
12 half would be my guess.

13 THE COURT: So finishing up Friday and probably
14 Monday, putting the jury's decision on Tuesday.

15 MR. COOKE: I would think. That would be my best
16 guess.

17 THE COURT: And I know you'll have to have the
18 ability to evaluate rebuttal.

19 MR. O'CONNOR: Yes.

20 THE COURT: Okay. All right. I don't think I had
21 anything else from my perspective.

22 Oh, the instruction set. I think I've got it ready
23 to go in its new iteration. We'll just hand that to you before
24 you leave today. Basically we corrected the typos and mistakes
25 you found. Thank you for that.

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1 We have changed -- we have taken out the word
2 "demand" in this set. And I'm not making any final decisions
3 yet, but I think given the tenor of the case, that fits better.
4 We'll talk about that when we go forward.

5 I can't remember the other changes, but we've done
6 something in response to everybody's comment. And you can see
7 where we are. There will be a few other things that we
8 obviously still need to decide how to address once we know
9 whether Mr. Inman testifies or not. And depending on where we
10 are tomorrow, we might have time to go through instructions.
11 So if you have time to look at that tonight, that would be
12 great.

13 MR. COOKE: Very good.

14 THE COURT: Okay. Anything else for today?

15 MR. O'CONNOR: No, Your Honor. Thank you.

16 MR. COOKE: I have nothing, Your Honor.

17 THE COURT: Okay. See you tomorrow.

18 *(Proceeding adjourned at 2:10 p.m.)*

19 * * * * *

1 I certify that the foregoing is a correct excerpt
2 transcript from the record of proceedings in the above-entitled
3 matter.

4 I further certify that the transcript fees and format
5 comply with those prescribed by the court and the Judicial
6 Conference of the United States.

7 Date: May 12, 2020

8 /s/ **Glenda Trexler**

9 Glenda Trexler, CSR-1436, RPR, CRR
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